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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,872	02/17/2004	Michael J. Hulin	MH-2-am-mv	9505
7590 08/01/2006			EXAMINER	
Jack Schwartz & Associates, 1350 Broadway, Suite 1510 New York, NY 10018-7702			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 08/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/779,872	Applicant(s) HULIN, MICHAEL J.	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-70 is/are pending in the application.
- 4a) Of the above claim(s) 53-70 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 12-48 is/are allowed.
- 6) ☒ Claim(s) 49-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 6-23-06 and this action is final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,594,860 to Nelson et al.

Referring to claim 49, Nelson et al. discloses a dumping cage for discharging crated seafood product into a conk tank – at 50, comprising means for receiving the crated seafood product – at 28,46,48, means for displacing the crate – at 14,18,22, whereby the crate is up-ended to discharge the contents – see at 28 proximate 24 and 42 in figure 1, whereby the crate is up-ended to discharge the contents – see figure 1, and means for removing the crate from the receiving means – see at 14,20.

Referring to claim 50, Nelson et al. discloses a product delivery apparatus for conveying crated seafood product to a conk tank – at 50, comprising means for receiving the crated seafood product – at 28,46,48, and means for elevating the crated seafood product to the upper rim of the conk tank – at 50 – see at 14,20,22 in figure 1.

Referring to claim 51, Nelson et al. discloses a system for delivering raw crated seafood product and discharging the product into a conk tank – at 50, comprising a product delivery apparatus – at 14,18,20,22, and a dumping cage – at 24,28,30, for discharging the crated seafood into a conk tank – at 50 – see figure 1.

Referring to claim 52, Nelson et al. discloses a conk tank incorporating a means for circulating water under pressure – at 54,64, and a means for agitating contents of the tank – at 24,28 or – at 60,62 – see figure 1.

### ***Allowable Subject Matter***

3. Claims 1-9 and 12-48 are allowed.

### ***Response to Arguments***

4. Regarding claims 49-52, the Nelson et al. reference US 3594860 discloses a dumping cage and a conk tank – at 50 comprising means for receiving the crated seafood product – at 28,46,48, means for displacing the crate – at 14,18,22, whereby the crate is up-ended to discharge the contents – see at 28 proximate 24 and 42 in figure 1, whereby the crate is up-ended

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to discharge the contents – see figure 1, and means for removing the crate from the receiving means – see at 14,20. The conk tank – at 50 allows for seafood product to be discharged into the tank and into the pump line – at 60 inside the tank as seen in figure 1. During the discharge in the tank – at 50, the shell of the seafood product is not discharged into the tank, however the portions of the seafood that are discharged into the tank are portions of a shellfish and thus are deemed to be a seafood product. Further regarding claim 49, the means for displacing the crate – at 14,18,22, is adapted to move the crate – at 24 along the track – at 16,28 as seen in figure 1 and moves the crate – at 24 to an inverted position as seen in the tank in figure 1 to allow for the seafood product to be discharged into the tank as seen in the tank – at 50 in figure 1. Further, there is no language in the claims that the crate is empty when the crate is at the means for removing the crate from the receiving means. Further regarding claim 50, the Nelson et al. reference discloses a conk tank – at 50, comprising means for receiving the crated seafood product – at 28,46,48, and means for elevating the crated seafood product to the upper rim of the conk tank – at 50 – see at 14,20,22 in figure 1. The seafood product being the shell is elevated along the track – at 16,28 when exiting the tank – at 50 as seen in figure 1 where the track – at 16,28 is located proximate the upper rim of the tank – at 50. Further regarding claim 51, Nelson et al. discloses a system for delivering raw crated seafood product and discharging the product into a conk tank – at 50, comprising a product delivery apparatus – at 14,18,20,22, and a dumping cage – at 24,28,30, for discharging the crated seafood into a conk tank – at 50 – see figure 1. Further regarding claim 52, the Nelson et al. reference discloses a conk tank incorporating a means for circulating water under pressure – at 54,64, and a means for agitating contents of the tank – at 24,28 or – at 60,62 – see figure 1 where the water in the tank would be

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agitated via the motion of elements 24,28 through the water or by the suction force of the pump – at 62 acting on the tube – at 60 located inside the tank – at 50 as seen in figure 1.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

7/26/06